



PEAK TRUST COMPANY

*Part 4*

# Private Retirement Trust Funding Basics

Structuring Contributions for Statutory Compliance and Protection

PRESENTED BY  
DUSTIN NICOLS

WEBINAR

PRIVATE RETIREMENT TRUST SERIES

# Private Retirement Trust Series

## Part 1



**Introduction to  
Private Retirement Trusts**  
July 8, 2025 | 12PM PST

## Part 2



**Planning a Retirement  
Purpose with  
Private Retirement Trusts**  
July 10, 2025 | 12PM PST

## Part 3



**Legal Logistics &  
Implementation of  
Private Retirement Trusts**  
July 15, 2025 | 12PM PST

## Part 4



**Private Retirement Trust  
Funding Basics**  
July 17, 2025 | 12PM PST

# Have a Question?

- Please use the **Q&A panel** to submit your questions at any time during the session.
- Questions will be answered **live throughout the session** as time allows, or **via follow-up after the webinar** if we don't get to them all.
- Thank you for joining us today!



**Work with people who understand trust.**

Peak Trust Company sets itself apart by providing:

- Prompt responses to complex questions
- Fast and efficient account opening process
- Direct access to expert team as a resource for help with new jurisdictions and advanced techniques



**Founded in 1997** in Anchorage, Alaska



State chartered in top jurisdictions  
**Alaska and Nevada**



Works with **1,500+ estate planners** across the nation



Serves **2,500+ families** residing in **all 50 states** and many countries



**\$12 billion+** assets under administration



**50 employees**, no commissioned sales



**Privately held**



# Today's Speaker



***Dustin I. Nichols, Esq.***

*Managing Attorney*

The Law Office of Dustin I. Nichols, A PC

Dustin I. Nichols is the Managing Attorney at The Law Office of Dustin I. Nichols, A PC in Newport Beach, California. For over 30 years, he has provided clients with common sense and uncommon thinking in integrated domestic and foreign corporate, estate, and business planning strategies, with a focus on niche retirement planning for California business owners. His practice spans entity formation, estate planning, trust administration, transactional matters, litigation, risk mitigation, and creditor exemption planning. He regularly advises on Integrated Estate, Corporate, and Integrated Exemption Planning structures, including the California Private Retirement Trust (PRT), and is often called upon by bankruptcy and litigation attorneys to assess the validity of complex asset protection plans. His deep knowledge of digital assets and blockchain technology enables him to offer clients the unique option of funding PRTs with cryptocurrency.

Dustin is a published author and frequent speaker on asset protection and retention strategies, having been featured in The Orange County Lawyer, Bloomberg Tax, and First American Trust Quarterly. He leads educational workshops and lunch-and-learns for CPA firms, RIAs, and insurance professionals on the PRT. He holds a Juris Doctor from Western State University College of Law and a Bachelor of Arts in Political Science from California State University, Northridge. He is a member of the California State Bar, certified before the U.S. Tax Court, and licensed to practice before the United States District Courts in the Eastern and Central Districts of California.

# Introduction to PRT Funding Basics

- The Statute: CCP § 704.115(b)
- Retirement Appraisal
- Assets Appropriate and Not Appropriate for PRT Funding
- Exemption Assessment Analysis
  - Tom - \$20M Net Worth
- Integrating Exemption Planning using the PRT with Advanced Estate Planning

# The Statute: CCP § 704.115(b)

“[a]ll amounts held, controlled, or in process of distribution by a private retirement plan, for the payment of benefits as an annuity, pension, retirement allowance, disability payment, or death benefit from a private retirement plan are exempt.”

Protect retirement assets at the expense of creditors by **recharacterizing** “exposed” personal assets to “exempt” private retirement assets with proper planning and implementation of PRT.

# PRT Basics

- Private Retirement Plan established by Employer Company
  - Plan can be ERISA qualified or not qualified
- Private Retirement Trust: vehicle holding the retirement assets for the benefit of the Employee
  - Sponsored by an Employer Company
  - Initially funded by employer to create a business sponsored retirement plan
  - Managed by an Independent Trustee or Custodian
- Purpose: provide retirement benefits



# PRT Exemption Protection

What's Funded into the PRT is:

- 100% exempt *if designed* and *used* for retirement purposes and held by the plan or distributed from the plan
  - Exception Creditors: IRS & judgments for child, family, and spousal support
  - Three Letter Agency “disgorgements.”



# Clearing the Funding Landscape

## Necessary “Due Diligence”

- No claims
- Contingent liability set-aside
- No transfer restrictions on identified retirement assets (LLC membership interests, corporate stock subject to Buy-Sell Agreements)



# Exemption Assessment Analysis

- Lifestyles and Assets
- Exemption Assessment Calculator
  - Pre-PRT Exposure
  - Exemption Protection Potential



# PRT Retirement Planner

- Integrates exemption diagnostics with traditional retirement plan modeling
- Actuarial analysis
- Designs the Retirement Plan and corresponding Retirement Appraisal based on an extensive analysis of the particular circumstances of the Participant
- Sets the stage for the Participant's retirement story



# Retirement Appraisal

Factors considered:

- Projected retirement age
- Life expectancy
- Lifestyle
- Net worth
- Projected lifetime net worth
- Earning capacity
- Types of assets held
- Itemized lifestyle expenses per year throughout the Participant's lifetime
- Adjustments for inflation
- What assets are needed to produce the lifetime cash flow during the Participant's retirement years (typically to age 95)

# Retirement Appraisal Report

- The retirement analysis generates a retirement planning model integrating exemption diagnostics and provides Monte Carlo projections
- The resulting calculations prove-up the Participant's retirement need and provide a roadmap for the appropriate annual funding that would be required to fulfill that need

# Gradual Accumulation of Money

## IN THE MATTER OF BARNES:

- Debtors sold their home and purchased an annuity with the proceeds
- Claimed the annuity was exempt because they intended to use it to fund their retirement

**LESSON:** A plan requires more than the instantaneous transmutation of a lump sum of previously nonexempt money or other assets into an exempt retirement plan. It contemplates the **gradual accumulation of money** to fund a future retirement.

# Overfunding

## IN THE MATTER OF RUCKER:

- Rucker has 3 wholly owned corporations that he used to establish a Pension Plan and several 401k Plans
- Rucker is the only beneficiary of the Plans
- Corporation contributed at least \$30,000 more to Rucker's Plan than paid to him in salary in 2001 and 2002
- Plan contributions were about equal to Rucker's salary

## LESSONS:

- Courts may consider the **contribution amount by a corporation relative to the debtor's wages** from that corporation.
- **For non-qualified plans**, there should be some correlation between the contribution amount by the Participant and the Participant's wages.



# Assets Appropriate for PRT Funding

- Select Personal Assets
- Select Business Assets
- PRT Digital Wallet & Special Protections for transactions involving digital assets



# Types of PRT Personal Assets

Any appreciating capital assets can be funded and protected

- Phantom Stock Plan benefits
- Supplemental Executive Retirement Plan benefits (SERPs)
- Cash
- Stocks and Bonds
- Life Insurance and Annuities
- Real Estate Investments
- Notes

# Types of PRT Business Assets

Any appreciating capital assets can be funded and protected

- Business Profits
- Corporate Stocks
- Notes Receivable
- Commercial Property



# Special Provisions for Funding with Digital Assets

- Special Co-Trustee required during any time the Trust Property consists of digital assets regardless of the value
- Purpose of Special Co-Trustee is to prevent the PRT Trustee from acting alone with respect to transactions involving digital assets, which
  - ensures traceability of digital assets, and
  - provides additional layer of accountability
- Special Co-Trustee is appointed by the Plan Participant or PRT Pylortes
- If transaction is time sensitive and Special Co-Trustee is unavailable to act, the PRT Pylortes may appoint a temporary Special Co-Trustee



# Assets that are Not Appropriate for Funding the PRT

- **Personal Use Assets**
  - Primary Residence
  - Vacation Home
  - Boats | RV | Recreational Vehicles
  - Jewelry
- **Non-cash Flowing Assets**
  - Vacant Land
  - Time Shares
- **Luxury Assets**
  - Ferrari
  - Classic Cars
  - Yacht



# Tom - \$20M Net Worth

- Resides in Orange County
- Business Owner
- Married
- No children
- 57 years old with a projected retirement age of 65






# Tom's Assets:

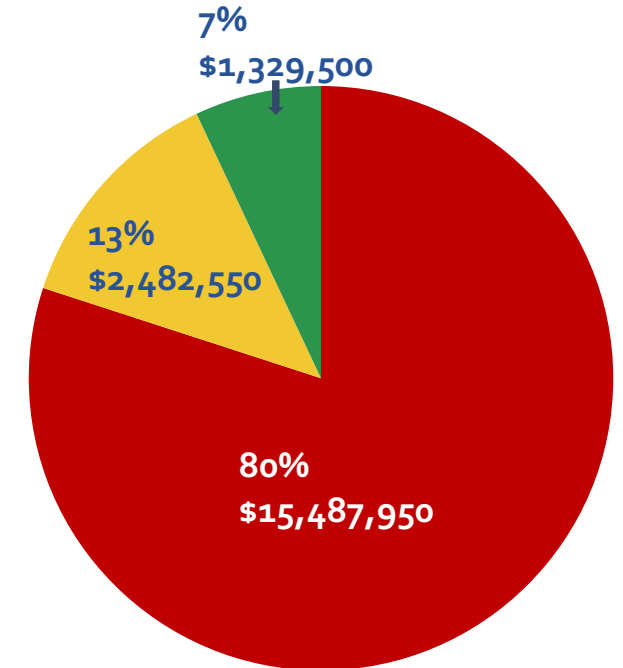
- \$900,000 annual income
- \$7,100,000 commercial real estate
- \$3,300,000 principal residence net equity
- \$2,500,000 single shareholder S-Corp
- \$2,300,000 stock portfolio
- \$2,300,000 cash
- \$1,000,000 ERISA qualified pension plan
- \$700,000 life insurance
- \$500,000 personal property
- \$300,000 rollover IRA



# Tom's Pre-PRT Exposure

## Exemption Assessment Report

-  **No Exemptions = Fully Exposed**  
These assets are fully exposed to creditors, lawsuits, and bankruptcy.
-  **No Exemptions = Limited Protection**  
These assets can be tactically attacked and potentially seized. It is critical you have these reviewed.
-  **Basic Exemptions = Offers Protection**  
These assets should be protected but you will want to ensure they are being properly administrated to protect plan distributions.



\*Your Total Net Worth: \$20,000,000

**Your Current Exempt Assets are: \$1,957,450 or 10% of your Total Net Worth**

# Tom's Retirement Exemption Protection Potential

Your Total Protection Potential is: **\$17,212,050** or **86%** of your current assets!

1. Protect **\$12,012,050** of your current equity by recharacterizing assets as "exempt" for your retirement.
2. Protect **\$5,200,000** of additional equity using strategic exemption retirement planning.
3. Protect **\$1,755,833 - \$3,511,666** of future earnings by utilizing the PRT Accelerator.
4. You've selected **Orange County** which has a **\$722,151** homestead exemption.

## Your Strategic Exemption Plan:



### Not Exempt = Still Exposed

Your capital risk is minimized to your current lifestyle savings only.



### Minimized Exposure = Potentially Protected

Your limited risk is reduced substantially but should employ additional risk-management tactics.



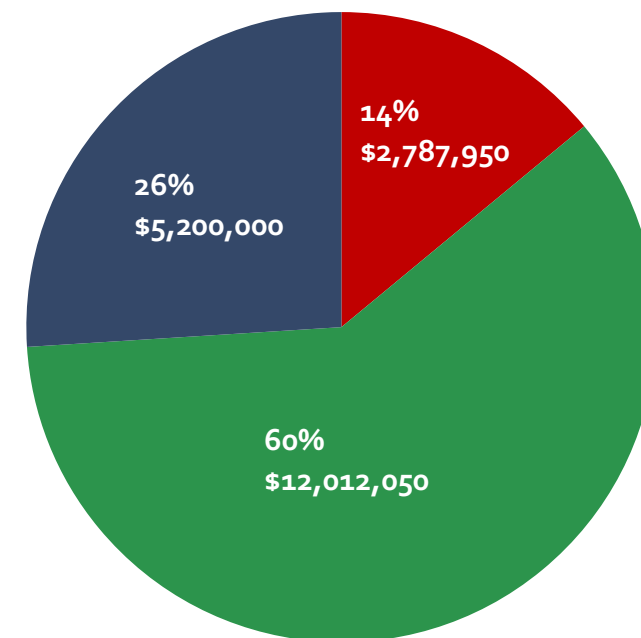
### Recharacterized as Exempt = Protected

Over and above your qualified plan assets, your private assets that can recharacterized as exempt for your retirement.



### Strategic Exemption Planning = Protection of Future Values

You can use your future earnings capacity and recaptured tax savings to protect future estate values as well as current equity assets – including your business assets and home equity.



\*\$1,755,833 - \$3,511,666

Strategic Protection: Future Income Protection Range based on the cone of uncertainty. Even after you've protected your home and business, you can also potentially protect this additional amount of future income.

# Advanced Planning Suggestions

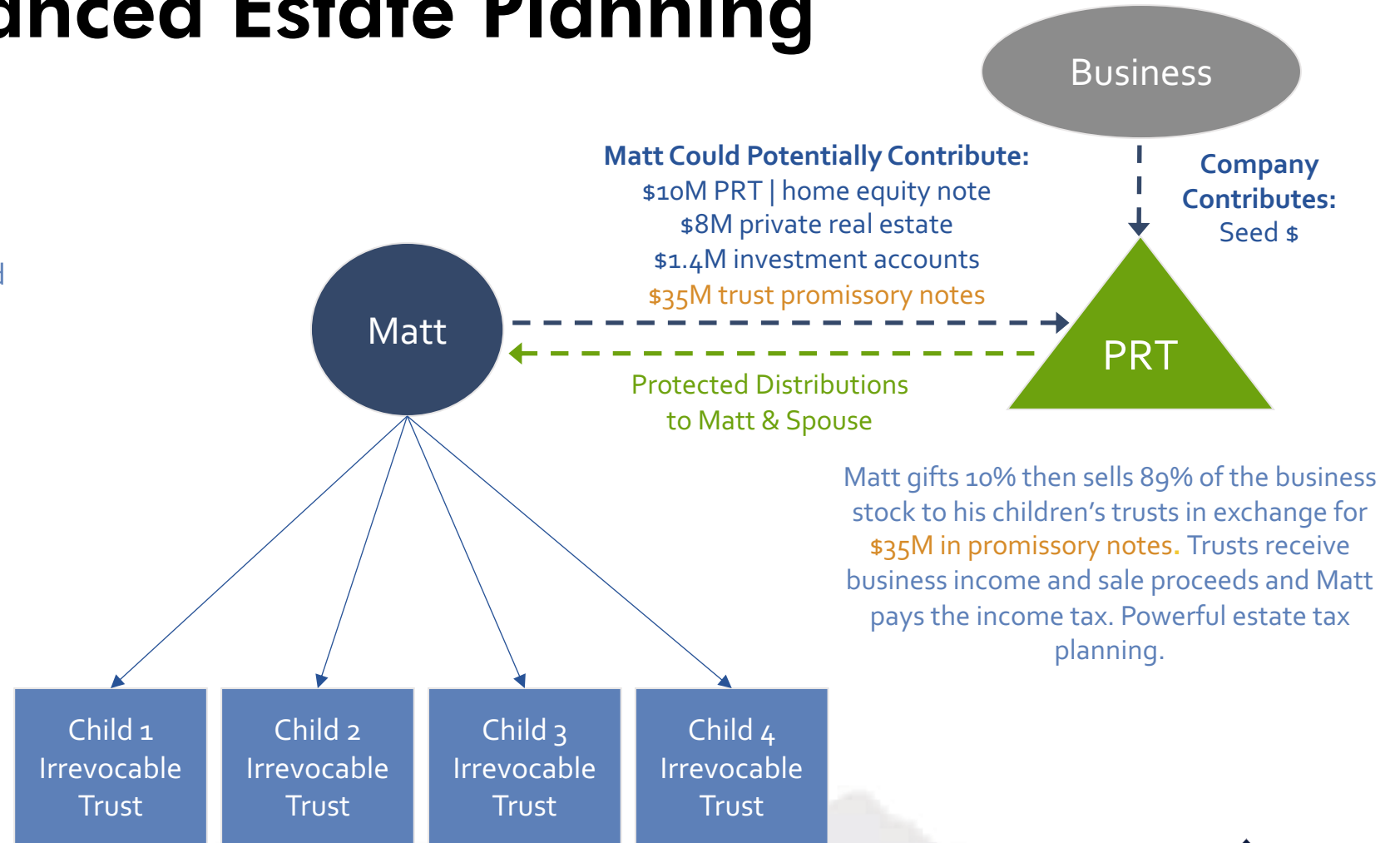
Integrating Exemption  
Planning using the PRT  
with Advanced Estate  
Planning





# Integrating Exemption Planning using the PRT with Advanced Estate Planning

- **Matt: \$88 Million Net Worth**
  - 60 years old
  - Married and 4 kids
  - Resides in San Diego County
  - Projected Retirement Age: 65 years old
- \$2.4M annual income
- \$60M Commercial Construction Co.
- \$11M principal residence (equity)
- \$8M private commercial real estate
- \$2.5M cash accounts
- \$2M company 401k account
- \$1.5M individual retirement account
- \$1.4M investment accounts
- \$1M personal property
- \$600k life insurance cash value



# Connect with Dustin



The Law Office of Dustin I. Nichols, A PC

For a complimentary 30-minute  
Integrated Exemption Planning consultation  
with Dustin Nichols, contact  
Sarah Bracken at [SarahBracken@dinapc.com](mailto:SarahBracken@dinapc.com)  
or call 949.240.1101



***Dustin I. Nichols, Esq.***

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# Thank you for attending!

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